

1982 WL 189115 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 27, 1982

\*1 Mr. David A. MacLellan, Chief  
Chairman  
State Fire Commission  
1109 Belleview Street  
Columbia, South Carolina 29201

Dear Mr. MacLellan:

You have asked for an opinion from this Office as to the authority of the State Fire Commission and the State Pyrotechnic Safety Board to promulgate regulations for the sale, transportation, storage, and use of permissible fireworks within this State.

[Section 23-35-140](#), [Code](#) of Laws, South Carolina, 1976, as amended, (hereinafter referred to as Code) requires the State Fire Marshal to issue rules and regulations concerning the safe, use, transportation, and storage of permissible fireworks within the State. A more recent statute, [Code Section 23-8-30\(I\)](#), gives the State Fire Commission authority to promulgate regulations regarding pyrotechnics except as to sale and storage, which the Board of Pyrotechnics shall regulate. These statutes are in accord with [Code Section 40-56-20](#), which grants the Board of Pyrotechnics the authority to regulate the sale and storage of pyrotechnics in South Carolina.

The State Board of Pyrotechnics has recently issued regulations as to the sale, storage and transportation and use of pyrotechnics. See South Carolina State Register, Volume 6, Issue 9, Chapter 19, Section 405.10 and 405.11. The State Fire Commission does not currently have any regulations concerning pyrotechnics. A recent opinion of this office dated March 17, 1982, (attached) stated that the promulgation of regulations by the Pyrotechnic Board as to the sale and storage of pyrotechnics preempted the State Fire Marshal's authority to supervise, control, or require conformance in that area. However, pursuant to [Code Section 23-9-60](#), the State Fire Marshal continues to have a duty to "require conformance with minimum fire prevention and protection standards based upon nationally recognized standards as may be prescribed" by the State Fire Commission for the prevention of fires and protection of life and property pursuant to [Code Section 23-8-30\(I\)](#).

Therefore, pursuant to [Code Sections 23-8-30\(I\)](#), [23-9-60](#) and [23-35-140](#), and in harmony with [Code Section 40-56-20](#) the State Fire Marshal continues to be in a supervisory capacity to require conformance with minimum fire prevention and protection standards in the transportation and use of permissible fireworks.

I trust this answers your questions. Please do not hesitate to contact me if you need further assistance.

Very truly yours,

Victor S. Evans  
Deputy Attorney General

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